

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 MCALLEN DIVISION

4 GALVAN, ET AL § CASE NO. 7:18-CV-113  
5 VERSUS § MCALLEN, TEXAS  
6 PABLOS, ET AL § WEDNESDAY,  
§ MARCH 25, 2020  
§ 4:02 P.M. TO 4:08 P.M.

7 TELEPHONIC MOTION HEARING

8 BEFORE THE HONORABLE RICARDO H. HINOJOSA  
9 UNITED STATES DISTRICT JUDGE

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12 APPEARANCES: SEE NEXT PAGE

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TELEPHONIC APPEARANCES:

FOR THE PLAINTIFFS:

NAJVAR LAW FIRM  
Jerad W. Najvar, Esq.  
Austin M. B. Whatley, Esq.  
2180 North Loop West, Ste. 255  
Houston, TX 77018  
281-404-4696

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL  
Michael R. Abrams, Esq.  
PO Box 12548, Capital Station  
Austin, TX 78711  
512-475-4103

FOR THE LOCAL ELECTION  
BOARD:

TEXAS RIO GRANDE LEGAL AID  
Jose Garza, Esq.  
Martin Golando, Esq.  
1111 N. Main Ave.  
San Antonio, TX 78212  
210-212-3700

1        MCALLEN, TEXAS; WEDNESDAY, MARCH 25, 2020; 4:02 P.M.

2                THE COURT: Civil Action No. M-18-113, Federico  
3 Flores, Jr. and others versus Ruth R. Hughs in her official  
4 capacity as Texas Secretary of State and others.

5                Can we have announcement for the parties?

6                MR. NAJVAR: Good afternoon, Your Honor. Jerad  
7 Najvar and Austin Whatley for the Plaintiffs.

8                MR. ABRAMS: Michael Abrams for the Secretary  
9 Hughs.

10               MR. GARZA: Jose Garza for the Local Election  
11 Board.

12               THE COURT: Is that it?

13               MR. GARZA: With me is Martin Golando, Your Honor.

14               THE COURT: We have some matters that have been  
15 filed by both sides with regards to wanting the Court to  
16 take certain action, and I guess I'll start with the  
17 Secretary of State's request.

18               MR. ABRAMS: Yes, Your Honor.

19               THE COURT: Go ahead.

20               MR. ABRAMS: Yes, Your Honor. I think that at  
21 this point we do agree with the Plaintiffs that the case is  
22 fully briefed and so we'd ask for -- and it's been argued,  
23 so we'd ask for a ruling and disposition on the competing  
24 Motions for Summary Judgments and if the Court is inclined  
25 to grant the Plaintiffs' motion, we'd ask for an opportunity

1 under the Local Rules for three weeks to respond to what the  
2 Plaintiffs filed today, which is in essence a Motion for  
3 Injunction. So we'd ask if the Court is going to rule in  
4 favor of the Plaintiffs that we have time to respond to that  
5 and brief that issue.

6 THE COURT: Well, I'm ready to rule on these  
7 motions unless somebody else had something else to say?

8 MR. NAJVAR: No, Your Honor.

9 THE COURT: Okay. With regards to Docket Entry  
10 No. 65, which is the Secretary of State's First Amended  
11 Motion for Summary Judgment, that is denied.

12 With regards to Docket Entry No. 66, that is  
13 Defendant Martinez Garcia's Dougherty No. 1 and Dougherty  
14 No. 2, and Martinez Motion to Dismiss Plaintiffs. This is  
15 with regards to the Board. That is also denied. That's  
16 No. 66.

17 With regards to the Plaintiffs' Motion for Summary  
18 Judgment, it is denied without prejudice to refiling with  
19 more information as to what you really consider should be  
20 the result with regards to how you cure this issue and with  
21 regards to what you think the Court should do with regards  
22 to that. And be clear with regards to your arguments about  
23 your motion, as well as the way it should be fixed.

24 And that gives the State the opportunity to  
25 respond to it also.

1 Was that clear to everybody?

2 MR. NAJVAR: Okay. Yes, Your Honor. This is  
3 Jerad for the --

4 MR. ABRAMS: So Your Honor --

5 MR. NAJVAR: Go ahead. Go ahead, Michael.

6 THE COURT: I don't think that anything can be put  
7 in place to have to take care of any June election. I'll  
8 you that much. That's why I'm not pursuing.

9 MR. GARZA: Your Honor, this is Jose Garza.

10 I just wanted to make sure that I was clear that  
11 the denial of Defendants' motion included the denial of  
12 qualified immunity urged by the Local Board?

13 THE COURT: Well with regards to the Local Board,  
14 you do have qualified immunity, as far as I'm concerned.

15 MR. NAJVAR: Right, and this is Jerad Najvar for  
16 the Plaintiffs and we haven't disputed that in terms of -- I  
17 mean, they're immune from --

18 THE COURT: Right.

19 MR. NAJVAR: -- any, you know, financial  
20 liability. And we're not seeking that.

21 THE COURT: And so you-all can submit an Order on  
22 the Motion to Dismiss for failure to state a claim on their  
23 part and which the Court basically finds that they're  
24 immune.

25 MR. NAJVAR: Yes, Your Honor.

1 THE COURT: Is that clear?

2 MR. GARZA: Yes, Your Honor.

3 THE COURT: The Court's ruling was more on the  
4 most -- if they were trying to defend the statute as  
5 written, but they're more like individuals who are just  
6 enforcing the statute as it was written and not responsible  
7 for it. And --

8 MR. NAJVAR: Your Honor, this is Jerad Najvar --

9 THE COURT: Go ahead.

10 MR. NAJVAR: -- for the Plaintiffs. And just to  
11 clarify, with respect to our -- so you said our Motion for  
12 Summary Judgment is denied without prejudice to refileing,  
13 but the Court, as I understand it, is interested in what is  
14 the remedy we're seeking?

15 THE COURT: Exactly.

16 MR. NAJVAR: And so that's what our renewed motion  
17 should really address?

18 THE COURT: That's what I'm asking you to address.

19 MR. NAJVAR: Right.

20 THE COURT: And which gives the Secretary of State  
21 the opportunity to respond to that.

22 MR. NAJVAR: Right, okay. And I'll just say, so I  
23 will -- we filed a document, but it was only like a few  
24 hours before this hearing, and I'm going to just --

25 THE COURT: I read it, but most of it seems to be

1 on your part with regards to wanting something done quickly  
2 by July. I just wanted to make sure you gave it enough  
3 thought as what exactly you would think that the remedy  
4 should be here and also have the State to be able respond to  
5 this.

6 MR. NAJVAR: Yes, Your Honor, and I'll just say  
7 we'll revise that as appropriate in light of your comments  
8 and -- but we'll have that on file, you know, the proposed  
9 remedy, then the proposed injunction order is detailed and,  
10 you know, based on Texas statutes and so I'll refile that  
11 with some slight modifications, but that'll be refiled this  
12 week.

13 And so, you know, then state-wide --

14 THE COURT: Once it's ripe and the answer has been  
15 filed, we'll set it for a hearing.

16 MR. NAJVAR: Okay.

17 THE COURT: If you-all don't have anything else,  
18 you-all can be excused. Thank you-all.

19 (The parties thank the Court.)

20 THE COURT: Sure.

21 (Proceedings adjourned at 4:08 p.m.)  
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\* \* \* \* \*

1 I certify that the foregoing is a correct  
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3 electronic sound recording of the proceedings in the above-  
4 entitled matter.

5 /S/ MARY D. HENRY

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